

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES**

March 19, 2003

8:36 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Peggy Wilson, Vice Chair
Representative Ralph Samuels
Representative Ethan Berkowitz
Representative David Guttenberg

MEMBERS ABSENT

Representative Cheryll Heinze
Representative Pete Kott

OTHER LEGISLATORS PRESENT

Representative Dan Ogg (Appointee-Designee)

COMMITTEE CALENDAR

HOUSE CONCURRENT RESOLUTION NO. 11
Relating to Alaska Salmon Day.

- MOVED CSHCR 11(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 22

"An Act relating to commercial fishing permit brokers; and providing for an effective date."

- HEARD AND HELD

EXECUTIVE ORDER 107

Habitat Division to Department of Natural Resources (DNR)

- HEARING POSTPONED TO 3/26/03

PREVIOUS ACTION

BILL: HCR 11

SHORT TITLE:ALASKA SALMON DAY

SPONSOR(S): REPRESENTATIVE(S)WOLF

Jrn-Date	Jrn-Page	Action
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HOUSE FSH COMMITTEE

-1-

March 19, 2003

02/28/03	0339	(H)	READ THE FIRST TIME - REFERRALS
02/28/03	0339	(H)	FSH, RES
03/17/03	0566	(H)	COSPONSOR(S): FOSTER, COGHILL, MEYER
03/19/03	0593	(H)	COSPONSOR(S): LYNN, FATE, SAMUELS
03/19/03		(H)	FSH AT 8:30 AM CAPITOL 124

BILL: HB 22

SHORT TITLE: COMMERCIAL FISHING PERMIT BROKERS
SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

Jrn-Date	Jrn-Page		Action
01/21/03	0037	(H)	PREFILE RELEASED (1/10/03)
01/21/03	0037	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0037	(H)	FSH, RES, FIN
01/21/03	0037	(H)	REFERRED TO FISHERIES
02/21/03		(H)	FSH AT 8:30 AM CAPITOL 124
02/21/03		(H)	Heard & Held MINUTE(FSH)
03/07/03		(H)	FSH AT 8:30 AM CAPITOL 124
03/07/03		(H)	-- Meeting Canceled --
03/10/03		(H)	MINUTE(RES)
03/19/03		(H)	FSH AT 8:30 AM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE KELLY WOLF
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented sponsor statement for HCR 11.

REPRESENTATIVE BRUCE WEYHRAUCH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 22.

MARY McDOWELL, Commissioner
Commercial Fisheries Entry Commission
Alaska Department of Fish & Game
Juneau, Alaska

POSITION STATEMENT: Expressed concern with language in HB 22.

CHRIS KNIGHT, Staff
to Representative Paul Seaton

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Discussed the definition of a broker license in HB 22 and suggested changes to address Representative Berkowitz's concerns.

LINDA SYLVESTER, Staff
to Representative Bruce Weyhrauch
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 22, suggested that an exemption for attorneys would satisfy Representative Berkowitz's concerns.

RICK URION, Director
Division of Occupational Licensing
Department of Community & Economic Development
Juneau, Alaska

POSITION STATEMENT: Reviewed the cost of a broker license as proposed under HB 22.

JOHN MICHELL, Owner
Alaska Permit Services
Bellingham, Washington

POSITION STATEMENT: During discussion of HB 22, related his endorsement of the use of escrow accounts.

BILL DEVRIES, Part Owner
Alaska Boats & Permits
Homer, Alaska

POSITION STATEMENT: During discussion of HB 22, offered alternatives to putting every deal into an escrow account.

ACTION NARRATIVE

TAPE 03-16, SIDE A

Number 0001

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at 8:36 a.m. Representatives Seaton, Wilson, and Samuels were present at the call to order. Representatives Guttenberg and Berkowitz arrived as the meeting was in progress. Also present were Appointee Ogg and Representative Wolf.

HCR 11-ALASKA SALMON DAY

CHAIR SEATON announced that the first order of business would be HOUSE CONCURRENT RESOLUTION NO. 11, Relating to Alaska Salmon Day.

Number 0072

REPRESENTATIVE KELLY WOLF, Alaska State Legislature, as sponsor of HCR 11, provided the following testimony:

Alaska is the largest commercial wild salmon fishery in the world. Nearly 95 percent of all commercially caught salmon in the United States are harvested here in Alaska waters. In the last decade state salmon harvests totaled more than \$4.5 billion, making Alaska's salmon fishery a valuable industry to the State of Alaska.

Last year, approximately 448,000 resident and nonresident licenses were issued for sport fishing alone - bringing another industry to the table for Alaska salmon.

The proposal for Alaska Salmon Day is to promote that Alaska's wild salmon is a healthy food, with omega vitamins. The intent behind this proposal is to make July 2nd ... "Alaska Salmon Day," to promote catching and eating of salmon. It's not an allocation issue; it's not a "let's step on either side of the fence." Its intent is to raise the awareness that eating salmon is healthy.

I hope you have received all of the recommendations for this - from Kenai Peninsula Borough, Alaska Seafoods, United Fishermen of Alaska, Salamatof Seafoods Inc., United Cook Inlet Drift Association, and Pacific Star Seafoods, Inc. We also have several others coming in at this time in support of it. ASMI [Alaska Seafood Marketing Institute] just supported this proposal, as well.

Number 0286

REPRESENTATIVE WILSON said she was amazed this idea had not been thought of previously, since salmon are such an integral part of Alaska's heritage.

REPRESENTATIVE WOLF replied that this idea had been addressed once before.

Number 0357

CHAIR SEATON said he thought HCR 11 was a very good idea, stating that it draws attention to the salmon industry. Furthermore, the stocks' are healthy, and therefore the focus is on improved salmon quality.

REPRESENTATIVE WOLF stated that HCR 11 is a way to promote Alaska wild salmon as a healthy food. He added that he does not fish commercially and he does not guide; he is "Joe fisherman."

Number 0488

REPRESENTATIVE BERKOWITZ suggested that if the intent is to promote wild salmon, then the word "wild" should be included in HCR 11.

REPRESENTATIVE WOLF responded that all salmon in Alaska are considered wild because Alaska does not currently allow for the farming of salmon. However, Representative Berkowitz's suggestion is worth looking into, he said.

Number 0545

REPRESENTATIVE BERKOWITZ moved to adopt a conceptual amendment such that Alaska Salmon Day would be called "Alaska Wild Salmon Day".

REPRESENTATIVE WOLF stated that he had no problem considering this to be a friendly amendment.

Number 0599

CHAIR SEATON asked if there was any objection to the conceptual amendment. There being no objection, it was so ordered that the word "wild" be incorporated throughout the resolution.

Number 0618

REPRESENTATIVE WILSON moved to report HCR 11, as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHCR 11(FSH) was reported from the House Special Committee on Fisheries.

HB 22-COMMERCIAL FISHING PERMIT BROKERS

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 22, "An Act relating to commercial fishing permit brokers; and providing for an effective date."

REPRESENTATIVE WILSON moved to adopt CSHB 22 [Version 23-LS0133\Q, Utermohle, 3/18/03] as a work draft. [No objection was stated, and Version Q was treated as adopted.]

Number 0709

REPRESENTATIVE BRUCE WEYHRAUCH, Alaska State Legislature, spoke as the sponsor of HB 22. He explained that Version Q is intended to address an issue in which a broker of permits and boats facilitated permit sales and transactions between local commercial fishermen. Theoretically, the broker was obtaining money from one fisherman to give to the other fisherman and thus take the permit from the seller and give it to the buyer. However, this broker was sending the money to the Nigerians in a scam. This broker is in jail for this.

REPRESENTATIVE WEYHRAUCH explained that the idea behind this legislation is that the bad apples don't effect commercial transactions involving fishermen who put their trust in a broker in order to facilitate permits. Brokers are an important component of the commercial fishing boat and permit industry because they facilitate transactions. Therefore, this legislation was intended to ensure that rules are followed and the broker can be trusted and if the broker [breaks the rules,] the legislation provides a mechanism by which the fishermen can pursue his/her rights and any damages.

REPRESENTATIVE WEYHRAUCH explained that Version Q requires a broker to obtain a license from the Department of Community & Economic Development (DCED) to act as a broker. The legislation requires that brokers use an escrow account for all transactions. The aforementioned is set forth on page 3 of Version Q. On page 4, Version Q allows claims against brokers who violate the law. If there is an action for damages against someone who broke this law, then violation of the statute is negligence per se. Negligence per se is a strict liability that does allow the party to obtain their full attorney's fees and costs incurred while pursuing damages from the broker.

REPRESENTATIVE WEYHRAUCH thanked DCED and the Division of Occupational Licensing for the work that was put into Version Q.

Number 1079

MARY McDOWELL, Commissioner, Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish & Game (ADF&G), informed the committee that Version Q has addressed the concerns of CFEC. Section 7 specifies CFEC's responsibilities. Now CFEC has the responsibility to monitor any transfer requests submitted to the agency. The CFEC will require that any broker involved be disclosed and the broker must show that he/she has a license under this legislation and that the funds being transferred will be through the escrow account. She pointed out that the CFEC will only be able to monitor transfers of permits.

MS. McDOWELL related that the only concern remaining is the definition of "commercial fishing vessel" on page 4. She pointed out that the definition refers to a vessel for which a license would be required under AS 16.05.490, which are the vessel licenses that CFEC issues. Therefore, the only vessels required to be licensed under that provision would be vessels that were going to be involved in commercial fishing activities in Alaska.

MS. McDOWELL related her understanding that the legislation seeks to address those people doing brokering in Alaska. However, she surmised that the legislation would want to get people even if the vessel being brokered was going to be fished elsewhere. If that's the case, she suggested deleting "for which a vessel license is required under AS 16.05.490" and inserting "including delivery or landing of fish or engaging in commercial fishing". The suggested language is how CFEC defines the vessels requiring licenses under AS 16.05.490. Therefore, the suggested language would cover the vessels whether fished in Alaska or not. Furthermore, the language "including delivery or landing of fish" refers to vessels involved in the transport of fish, which CFEC already licenses.

REPRESENTATIVE WEYHRAUCH said he was agreeable to Ms. McDowell's suggested language.

Number 1381

REPRESENTATIVE WILSON moved that the committee adopt [Amendment 1] as follows:

Page 4, line 25-26:

Delete "for which a vessel license is required under AS 16.05.490"

Insert "including delivery or landing of fish or engaging in commercial fishing"

There being no objection, it was so ordered.

CHAIR SEATON asked if brokers who handle transactions such as IFQs [individual fishery quota shares] also engage in handling vessels and permits.

MS. McDOWELL surmised that most people who [broker] permits also [broker] IFQs. However, she wasn't sure these [brokers] would handle vessels.

CHAIR SEATON asked if these [brokers who deal with permits and IFQs] would become fully aware of this provision, since CFEC would deal with permits being transferred.

MS. McDOWELL said she didn't know whether the Division of Occupational Licensing would do some outreach to brokers to inform them of this new licensing provision. She clarified that the licensing will have to be done through the Division of Occupational Licensing. The CFEC will monitor the transfer at the point at which the specific permit transfer is submitted. When the permit transfer is submitted, CFEC says that the transferee must disclose whether a broker is involved and if so, the broker must be complying with the rules. The CFEC won't have the access of the aforementioned for quota shares of vessels.

CHAIR SEATON clarified that he was trying to establish that most of the brokers who handle other items also handle permits. Therefore, in the course of the business the brokers will become aware of this because CFEC will require them to establish and verify the use of an escrow account for permits.

MS. McDOWELL agreed that would be true for the most part.

Number 1552

REPRESENTATIVE BERKOWITZ posed a situation in which the following are hired: an appraiser to value the vessel, a lawyer to assist in the transaction, and an individual to clean the vessel. He surmised that the aforementioned people may be swept in under the language on page 3, lines 16-17. He acknowledged that an appraiser would be compensated for his/her services, but

pointed out that the appraisal is being performed in order to facilitate the transfer of the vessel.

CHAIR SEATON highlighted that this language speaks to someone who is [brokering] for compensation. Therefore, the individual would have to be licensed as a broker per the provisions specified in the legislation.

REPRESENTATIVE BERKOWITZ returned to the appraiser who was hired to value the vessel and the lawyer who was hired to assist with the paperwork. He reiterated that the aforementioned people would be swept in under this legislation, although they aren't actually brokering the deal. He surmised that the "handle or facilitate" language on page 3, line 17, includes these individuals in the requirement to obtain a broker license.

CHAIR SEATON agreed.

Number 1718

REPRESENTATIVE WEYHRAUCH clarified that this legislation is not intended to include appraisers, surveyors, or attorneys. This legislation intends to deal with those who hold themselves out as a broker of permits or a facilitator of permits as part of their business. However, he understood Representative Berkowitz's point and surmised that there needs to be a definition of "broker."

REPRESENTATIVE BERKOWITZ characterized the broker as the "matchmaker" who represents both parties whereas the surveyor, appraiser, or attorney only represent one party. He inquired as to the process and asked if there is a pool of people who want to purchase and a pool of people who want to sell.

REPRESENTATIVE WEYHRAUCH answered that it works differently for different brokers. For example, one broker may, in a magazine, post a listing of permits or quota shares that are for sale. The broker would then make the match and facilitate the deal. In other cases, there may be more active involvement by a broker in which people with quota shares for sale are sought as are buyers.

REPRESENTATIVE BERKOWITZ surmised, then, that the magazine would be facilitating the transfer and thus would be required to obtain a broker license.

REPRESENTATIVE WEYHRAUCH agreed. The attorneys and appraisers are involved in these deals at the request of one of the parties.

Number 1952

CHRIS KNIGHT, Staff to Representative Paul Seaton, Alaska State Legislature, informed the committee that the change to the definition of broker license in Section 6 was made after some discussions with CFEC. The CFEC felt that inserting language specifying "handle and facilitate" was important. If the language reverted back to that in the original legislation, Representative Berkowitz's concerns would probably be alleviated. Mr. Knight specified that the original language [found in Version 23-LS0133\D] reads as follows:

A person may not engage in the business of purchasing, selling, leasing, or transferring a commercial fishing permit on behalf of a buyer, seller, lessee, transferee, holder, or owner of the permit unless the person is registered with the Department of Community and Economic Development as a broker of commercial fishing permits.

MR. KNIGHT provided his personal experience. If a surveyor is doing business through or with a broker on the selling of a vessel, the surveyor's contract is only for surveying of the vessel. The surveyor's contract doesn't facilitate the transfer. Therefore, reverting to the original language would address the concerns regarding the lawyers that may be facilitating or engaging in the process to ensure that the documentation is correct.

REPRESENTATIVE SAMUELS pointed out that on page 3, lines 17-18 of Version H the language "or a commercial fishing vessel" is included.

REPRESENTATIVE BERKOWITZ related his belief that [there is reference] to vessels in both Version H and Version Q.

CHAIR SEATON specified that there isn't a reference to vessels in Version D, which was quoted by Mr. Knight.

MR. KNIGHT suggested that an amendment incorporating the original language of Section 6 from Versions D and H would include vessels and cover the concerns.

Number 2109

LINDA SYLVESTER, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, said an alternative to the amendment would be to insert an exemption for attorneys, an exemption similar to their exemption with real estate agents. She pointed out that AS 08.88.900(a)(2) reads: "an attorney in fact under a power of attorney authorizing the consummation of a specific real estate transaction; an attorney in fact may not act as such under this paragraph for more than two transactions in a calendar year". The aforementioned is how attorneys are treated when working for real estate agents and real estate appraisers.

REPRESENTATIVE BERKOWITZ returned to the earlier mentioned scenario in which a magazine has listings of vessels for sale and pointed out that the newspaper, via the Want Ads, would facilitate the transfer of a vessel. He noted that the newspaper would be paid for the ad.

REPRESENTATIVE WEYHRAUCH agreed that the [arguments] made by Representative Berkowitz can be constructed. However, he said he believes it to be clearly beyond the intent of the legislation because it [the newspaper or magazine] isn't the central party in the transaction rather it's merely used to advertise. [The newspaper or magazine] isn't holding the money for the parties or communicating with the parties or presenting themselves to an agency to obtain or sell permits. Representative Weyhrauch remarked that the statute must be read to its logical extension.

Number 2261

CHAIR SEATON asked if Representative Weyhrauch had any problem with returning to the language in Section 6 of Version H.

REPRESENTATIVE WEYHRAUCH replied no. He pointed out that the next committee of referral for this legislation is the House Resources Standing Committee. He informed the committee that he has committed to two brokers that he would carefully review this and ensure that [the language] is specific to the industry. He said that he would continue to advise this committee of the progress on this.

REPRESENTATIVE BERKOWITZ related Appointee Ogg's suggestion to insert the following language: "A person may not for compensation broker a transfer" and then define broker in a subsequent section.

MS. SYLVESTER pointed out that Version Q contains the definition of a broker. Ms. Sylvester related her understanding from Ms. McDowell that the problem with the language in Version H is that the broker is not personally buying the permit. Therefore, if Appointee Ogg's suggestion is used, the definition of broker would need to be added in the definitions section. Again, a simpler approach would be to exempt attorneys, she said.

REPRESENTATIVE BERKOWITZ clarified that broker is being used as a verb not as a noun. The distinguishing feature of a broker is that the broker has a duty to both parties in the transaction while all the other parties, the attorney and the surveyor, don't. He expressed the need to use the language "to broker" as a verb.

MS. SYLVESTER highlighted that an attorney is operating under a different type of license and has ethical obligations based on that license. Therefore, that would be an important element in exempting an attorney.

REPRESENTATIVE SAMUELS pointed out that this isn't just referring to attorneys, it's also referring to appraisers or individuals who know more about boats. Therefore, he leaned toward the option of the definition rather than the exemption.

Number 2505

MS. McDOWELL turned to the "handle or facilitate" language used in Section 6, which she suggested. The language "handle or facilitate" makes it sound like the person being targeted here did the buying and selling. However, that isn't the case. These individuals are handling or facilitating the buying or selling of the lease for other people. She mentioned that the language "on behalf of" may cover her concern and thus deleting "or facilitate" may be appropriate.

REPRESENTATIVE BERKOWITZ requested a brief at-ease in order to determine if there is a definition of "broker" in case law because it isn't in statute anywhere.

REPRESENTATIVE WEYHRAUCH said that he has a definition of broker from a broker. He reiterated his commitment to work with a broker on the definition before the legislation moved out of the House Resources Standing Committee.

REPRESENTATIVE BERKOWITZ said that he liked Appointee Ogg's suggestion to use the language "broker" and define it. Using plain language would make it easier to use the law, he remarked.

CHAIR SEATON related his understanding then that the language "handle or facilitate" in Section 6 would be replaced with the language "broker".

REPRESENTATIVE BERKOWITZ indicated agreement with Chair Seaton's understanding and added that he was going to look for the definition of "broker" in case law.

CHAIR SEATON pointed out that [if Representative Berkowitz's suggestion] was used, then "broker" would be used as a verb.

REPRESENTATIVE BERKOWITZ interjected that a dictionary definition may suffice. He informed the committee that "broker" is a transitive verb that means to arrange or manage as a broker, such as broker an agreement among opposing factions. However, the noun "a broker" is one that acts as an agent for others, as in negotiating contracts, purchases, or sales. Therefore, the definition in the dictionary for "broker" is sufficient. If there's a problem, then those in the House Resources Standing Committee could address it.

Number 2810

REPRESENTATIVE BERKOWITZ moved that the committee adopt [Amendment 2] as follows:

Page 3, line 17:

Delete ", handle or facilitate"

Insert "broker"

REPRESENTATIVE WEYHRAUCH, in response to Chair Seaton, said that he is fine with the amendment and the thought of working with it in the House Resources Standing Committee if need be.

MS. McDOWELL related that she believes the amendment is good and clear.

CHAIR SEATON announced that the amendment was adopted without objection.

Number 2908

RICK URION, Director, Division of Occupational Licensing, Department of Community & Economic Development (DCED), commented that [Version Q] is better than the original legislation. He noted that although a fiscal note isn't typically prepared for legislation until it is formally adopted, he had requested such for [Version Q]. The fiscal note for [Version Q] is the same as the original legislation. He explained that under the licensing laws the division is required to divide the cost of administering the license amongst the group of licensees, which amounts to \$41,000 for this group. He estimated that the cost to administer this license amounts to about \$3,300 per individual. If the attorneys are included that licensee fee would decrease.

REPRESENTATIVE BERKOWITZ commented that \$3,300 seems to be a lot. He inquired as to why it's so expensive.

TAPE 03-16, SIDE B

MR. URION pointed out that this legislation asks the division to regulate an industry and that doesn't happen without staff and the law specifies that the cost of that staff person is divided amongst the licensees.

CHAIR SEATON highlighted that the committee had not received a fiscal note from the division.

The committee took a brief at-ease [during which the committee received the fiscal note from the Division of Occupational Licensing].

Number 2845

MS. SYLVESTER said it's the first time she has seen the fiscal note. She explained that when working on this notion, she was fully aware that this legislation would impact a small group of people, under 20 individuals. The intention was to utilize the least restrictive [licensing requirements]. The [licensing requirements] are similar to those regulations for concert promoters, of which there are nine individuals. The fee for concert promoters is \$375 for a biannual license. Ms. Sylvester reviewed the fees various licensee groups have and the various levels of regulations associated with those groups. She expressed the need to work with the division regarding the license fee for brokers because the \$3,300 fee seems excessive.

CHAIR SEATON surmised that there are a number of licenses with the same amount of people as there would be brokers, and therefore he questioned the difference between the low level licensing and other licenses.

MR. URION pointed out that the [statute] specifies that the cost of the licenses shall be equally divided amongst those obtaining the license. He reiterated that the cost to administer this license group is \$41,000. He emphasized that it takes staff to administer this license group. Furthermore, the small number of brokers make the fee higher.

CHAIR SEATON highlighted that the committee doesn't have the official fiscal note for the CS. Therefore, he suggested the committee meet with the division in order to research the fiscal note.

MR. KNIGHT pointed out that the earlier amendment in which the language "handle or facilitate" was replaced by "broker" should also include replacing the "handled or facilitated" language on page 5, lines 7 and 9 with "brokered".

REPRESENTATIVE WILSON moved the above conceptual amendment to the already adopted [Amendment 2]. Furthermore, the conceptual amendment would be such that throughout the legislation the words "handled or facilitated" would be replaced with the "brokered".

[This conceptual amendment to Amendment 2 was treated as adopted.]

Number 2570

JOHN MICHELL, Owner, Alaska Permit Services, specified that his testimony today relates specifically to escrow accounts as an alternative solution to previous proposals that include bonding issues and trust account activity. He related that he personally endorses the use of escrow accounts.

Number 2499

BILL DEVRIES, Part Owner, Alaska Boats & Permits, informed the committee that the three owners of Alaska Boats & Permits have been boat and permit brokers for six years. He explained that they didn't oppose the original legislation, although they requested that the bonding requirement be more reasonable and comparable to industries such as the real estate industry and

the general contractor industry. For instance, the general contractor bond is \$5,000. Furthermore, real estate brokers contribute to a fund that pays a maximum of \$10,000 per claim with an aggregate of \$50,000. The main concern was that the bonding requirement be measured, reasonable, and something that wasn't cost prohibitive.

CHAIR SEATON interjected that the legislation has moved away from the bonding requirement.

MR. DEVRIES recalled that the next version of the legislation created trust accounts, which [Alaska Boats & Permits] didn't oppose. However, he wasn't sure that the legislation ever received a hearing. Now this third version creates an escrow account. He informed the committee that an escrow account with Wells Fargo will cost about \$200 each. Mr. Devries related his expectation that his company will do 200 sales a year, which would increase the organization's overhead by \$40,000 and thus will probably put the company out of business.

MR. DEVRIES remarked that escrow accounts are nice if there aren't many of them. However, often [Alaska Boats & Permits] does sales with a gross amount of the sale as little as \$1,500, which might result in a commission in the amount of \$100. [Alaska Boats & Permits] feels that putting every single deal into an escrow account is ridiculous. Therefore, Mr. Devries requested that there be a threshold such that big deals, deals of \$100,000, would utilize an escrow account. He also suggested that language could be added that would allow one to waive the requirement of using an escrow account. He informed the committee that his clients often do several transactions a year and thus he didn't believe they would be amicable to this imposition of costs and burdens on the transaction.

CHAIR SEATON informed the committee that banks have indicated these will be \$80 per escrow account.

Number 2236

REPRESENTATIVE WILSON asked if Mr. Devries' suggestions would be addressed between this committee and the next committee of referral. She expressed the need to determine the facts.

CHAIR SEATON commented that Mr. Devries' suggestion of a floor on the size of the deals required to use escrow accounts seems reasonable.

REPRESENTATIVE WILSON recalled the suggestion to allow the escrow account to be waived.

CHAIR SEATON predicted that if a waiver option is available, everyone will utilize it.

REPRESENTATIVE SAMUELS interjected that the escrow account is the gut of the legislation. He related that although he has no problem with a threshold, he did have a problem with the \$3,200 fee.

CHAIR SEATON pointed out that HB 22 has a referral to the House Finance Committee after the House Resources Standing Committee.

Number 2138

MR. KNIGHT noted that the committee could make an amendment on page 3, line 23, after "transactions" insert "greater than" and specify the amount desired.

REPRESENTATIVE SAMUELS asked if Representative Weyhrauch had a problem with a floor and if not, what amount would he suggest.

REPRESENTATIVE WEYHRAUCH remarked that choosing a number would be somewhat arbitrary. In practice, monies go into an escrow or trust account and is used for all types of transactions. [The escrow account] is simply identified as an intermediary. Representative Weyhrauch related his belief that anywhere between \$1,000 and \$5,000 would be appropriate. However, he said he felt that the issue is that the money be placed in a trust account for the benefit of the party who is to receive the money rather than for the benefit of the broker's personal use. In response to Chair Seaton, Representative Weyhrauch said he felt it was appropriate for an escrow account to be used for transactions greater than \$5,000 while a trust account may be used for all transactions below \$5,000.

REPRESENTATIVE WEYHRAUCH turned to Mr. Devries earlier remark that his company would go out of business because of these fees. However, Representative Weyhrauch pointed out that fees are passed on to the consumer as a cost of doing business.

REPRESENTATIVE WILSON related her understanding that one can have a regular account as an escrow account as long as it isn't used for something else.

CHAIR SEATON clarified that what Representative Wilson described is a trust account because an escrow account is on an individual transaction.

Number 1895

REPRESENTATIVE SAMUELS moved that the committee adopt [Amendment 3], to change subsection (b) to read as follows:

(b) A broker shall use a trust or an escrow account for all transactions for which a broker license is required under this section. A broker shall use an escrow account for all transactions greater than \$5,000, for which a broker license is required under this section.

There being no objection, it was so ordered.

CHAIR SEATON acknowledged that there are still some folks wanting to testify. He announced that the legislation would be heard at the next scheduled meeting. [HB 22 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 9:55 a.m.